

TO: Thomas Jefferson Bush COMPANY:

01-30-03

DA #



# UNITED STATES PATENT AND TRADEMARK OFFICE

**Patent Technology Center 2800****Facsimile Transmission**

<b>To:</b>	<b>Name:</b>	Thomas Jefferson Bush
	<b>Company:</b>	
	<b>Fax Number:</b>	317-637-3835
	<b>Voice Phone:</b>	317-637-3701
<b>From:</b>	<b>Name:</b>	Gregory J Toatley Jr
	<b>Official Fax Number:</b>	(703) 872-9318
	<b>Official After Final Fax Number:</b>	(703) 872-9319
	<b>Voice Phone:</b>	7033087889

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

**Fax Notes:**

Mr. Bush,

Here is the petition form to revive your application. The fee is \$650.00. You must file this with a response to the Office Action previously sent. Gregory Toatley 703-305-4066

**RECEIVED**

JAN 31 2003

OFFICE OF PETITIONS



# UNITED STATES PATENT AND TRADEMARK OFFICE

**Patent Technology Center 2800**

## **Facsimile Transmission**

<b>To:</b>	<b>Name:</b>	Thomas Jefferson Bush
	<b>Company:</b>	
	<b>Fax Number:</b>	317-637-3835
	<b>Voice Phone:</b>	317-367-3701
<b>From:</b>	<b>Name:</b>	Gregory J Toatley Jr
	<b>Official Fax Number:</b>	(703) 872-9318
	<b>Official After Final Fax Number:</b>	(703) 872-9319
	<b>Voice Phone:</b>	7033087889

37 C.F.R. 1.8 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

### **Fax Notes:**

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Mr. Bush,

Here is the change of correspondence address form. Please file this with the petition to revive. Gregory J. Toatley, Jr. 703-305-4066

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MR. BUSHKING, PRG 2 CO. OF  
CORRECTED FIG. 13.1A. SEND THE SET  
WITH THE PENCILLED INFO ON THE  
BACK.  
*Gen. M. J. May*

01/09/2003 14:21 FAX 703 308 4741  
01/09/03 14:34:03

DICK BERTSCH  
USPTO->

CASTELLE RightFAX

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Page 003



Application/Control Number: 09/815,794  
Part Unit: 3743

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DETAILED ACTION

OFFICE OF PETITIONS

*Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: element 41. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

**Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claim 1 is rejected under 35 U.S.C. 102(a or e) as being anticipated by Sim.

Sim discloses: an apparatus (10) useful as a barbecue pit having a food grill (130), an enclosure (20); a firebox (100) having a fuel grate (120) wherein

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CASE RightFAX

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JAN 29 2003

## Office Action Summary

## Application No.

09/815,794

## Applicant(s)

BUSH, THOMAS JEFFERSON

## Examiner

Kathryn Ferko

## Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

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## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:



FIG. 1

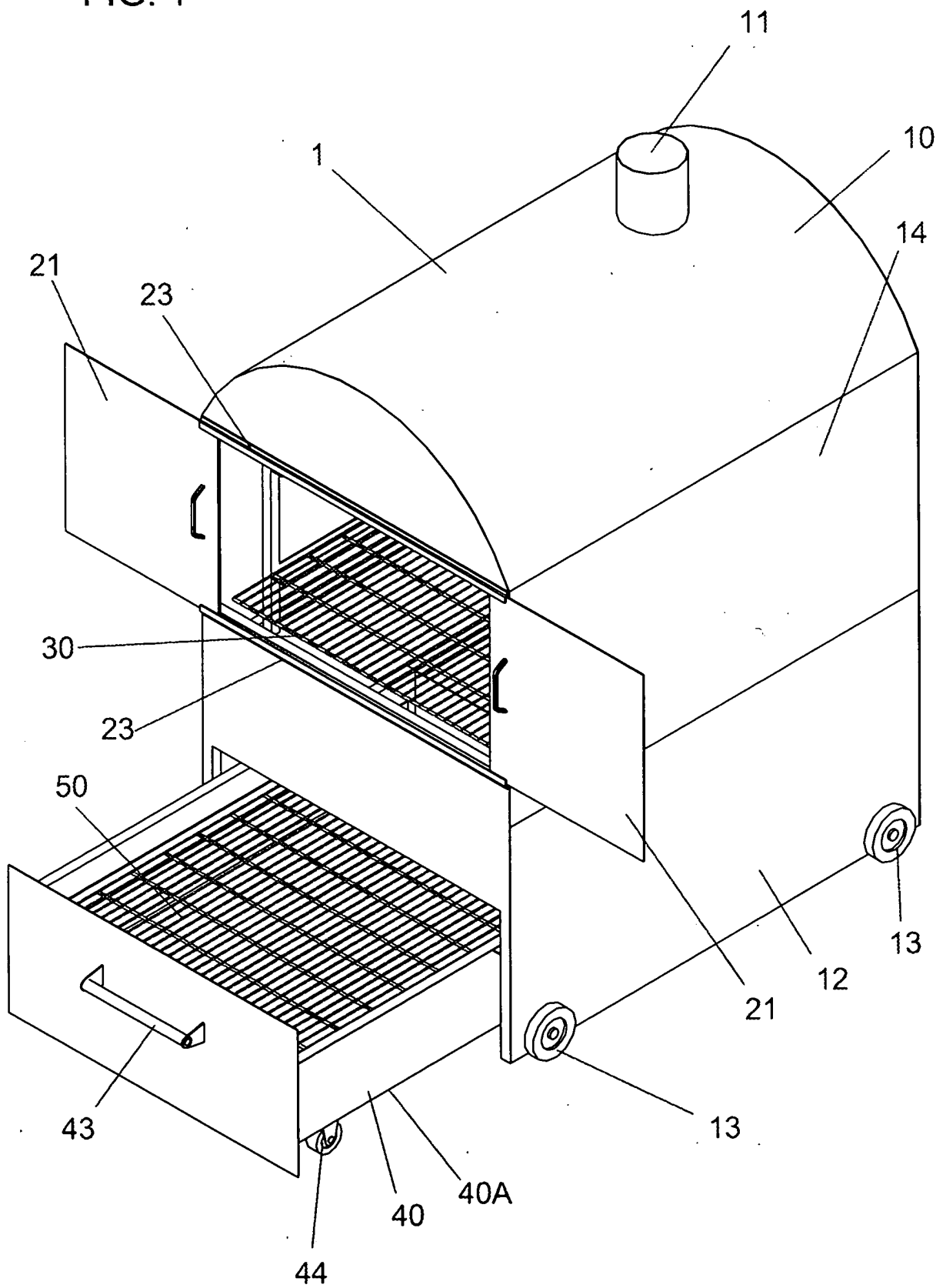
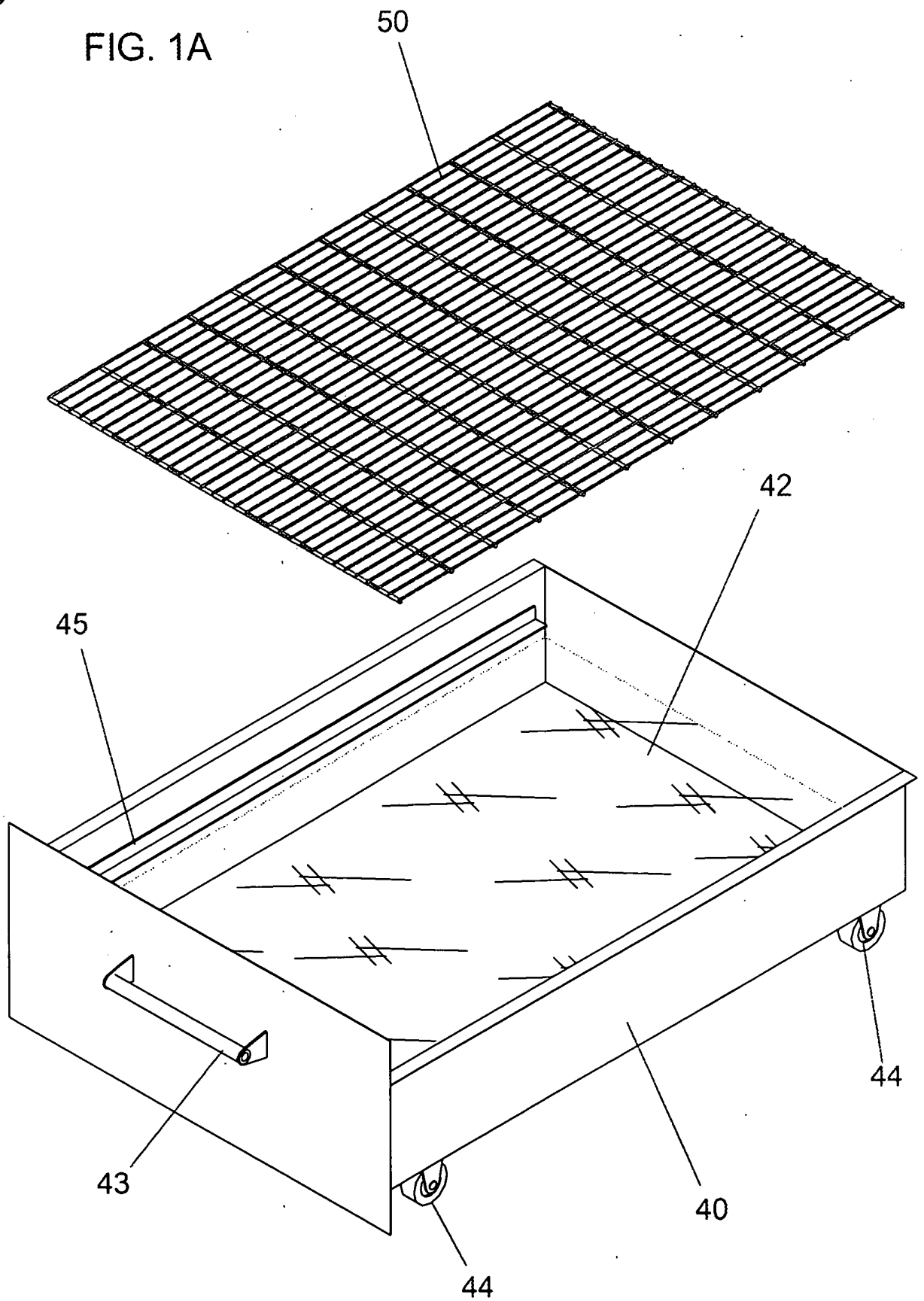




FIG. 1A





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01/09/03 14:34:30

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Art Unit: 3743

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firebox is contained in and removable from the enclosure; and a layer of water that can be poured into the firebox where the layer of water serves to receive charcoal ashes as charcoal placed on the fuel grate burns as well as grease dripping from food placed on the food grill, as recited in sections [0044], [0102], [0120], [0148], claim 26 and seen in figures 1 and 3.

#### **Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: US Patent No. 4,877,011 discloses a barbecue pit with a doors and a removable firebox. Although not explicitly recited it would be obvious to one with ordinary skill in the art to include water in element 28 for the purpose of ease of cleaning. US Patent No. 4,827,903 discloses a barbecue cooker with a water collection system. US Patent No. 5,070,857, US Patent No. 6,199,474, US Patent No. 6,189,528, US Patent No. 4,489,706, and US Patent No. 5,862,741 teach to utilize water in a lower pan area. Other references are US Patent No. 6,029,566, US Patent No. 6,289,795, US Patent No. 6,293,271, and application US 2002/0017290.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn Ferko whose telephone number is (703) 306-3454. The examiner can normally be reached on M-F (7:30-5:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A Bennett can be reached on (703) 308-0101. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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Art Unit: 3743

872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

KF  
January 9, 2003



FORM PTO-1472  
(Rev. 3-98)U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

## EXAMINER'S CASE ACTION WORKSHEET

Application No. 09/815,794		Legal Instrument Examiner
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CHECK TYPE OF ACTION

DATE OF COUNT

<input checked="" type="checkbox"/> Non-Final Rejection	<input type="checkbox"/> Restriction/Election Only	<input type="checkbox"/> Final Rejection
<input type="checkbox"/> Ex Parte Quayle	<input type="checkbox"/> Allowance	<input type="checkbox"/> Advisory Action
<input type="checkbox"/> Examiner's Answer	<input type="checkbox"/> Reply Brief Noted	<input type="checkbox"/> Non-Entry of Late Paper
<input type="checkbox"/> Defective Notice of Appeal or Defective Appeal Brief	<input type="checkbox"/> Interference SPE _____ (Approval for Disposal)	<input type="checkbox"/> Suspension SPE _____ (initial)
<input type="checkbox"/> Allowance After Examiner's Answer	<input type="checkbox"/> SIR Disposal (use only after FAOM)	<input type="checkbox"/> Post-Allowance Communication
<input type="checkbox"/> Miscellaneous Office Letter (With Shortened Statutory Period Set)	<input type="checkbox"/> Notice of Non-Responsive Amendment (With One Month Time Period set)	<input type="checkbox"/> Miscellaneous Office Letter (No Response Period Set)
<input type="checkbox"/> Letter Requiring Formal Drawings	<input type="checkbox"/> Supplemental Action (Excluding Examiner's Answer)	<input type="checkbox"/> Response to a Rule 312 Amendment
<input type="checkbox"/> Restart Time Period (e.g., Missing References)	<input type="checkbox"/> Interview Summary	<input type="checkbox"/> Authorization to Change Previous Office Action SPE: _____ (Initial)
<input type="checkbox"/> Abandonment	<input type="checkbox"/> Express Abandonment Date: _____	<input type="checkbox"/> Abandonment After Examiner's Answer

Examiner's Name: Kathryn Ferko

AU: 3743